



State of Ohio

# Ohio State Chiropractic Board

Kelly A. Caudill, Executive Director

## BEFORE THE OHIO STATE CHIROPRACTIC BOARD

IN THE MATTER OF: )  
 )  
 ) Case No. 2019 CHR 044  
Aaron T. Schrickel, D.C. )  
License No. DC-02267 )  
 )  
 )  
Respondent. ) Date: February 14, 2019

## NOTICE OF OPPORTUNITY FOR HEARING

### INTRODUCTION & JURISDICTION

In accordance with the provisions of Sections 119.06 and 119.07 of the Ohio Revised Code (ORC), you are hereby notified that you are entitled to a hearing before the Ohio State Chiropractic Board on the question of whether or not your doctor of chiropractic license, which was issued under the provisions of Chapter 4734 of the ORC, should be disciplined for your alleged violation ORC Sections 4734.31 (C)(7) and (C)(32) and Ohio Administrative Code Section 4734-9-02, to wit:

### ALLEGATIONS

You are the only licensed chiropractic physician at Helping Hands Chiropractic located in Cincinnati, Ohio, a business owned by Richard H. Byrd.

On or about January 9, 2019, Prospect A was repeatedly called by "Investigator Johnson" (aka Roderick Harvey, aka Investigator Jones), a telemarketer acting on your behalf. "Investigator Johnson" advised Prospect A he released her auto accident as a public record and that in order to pay out the insurance claim Prospect A would need to see a chiropractor. "Investigator Johnson" immediately made an appointment with Helping Hands Chiropractic for the next day.

On or about January 25, 2019, Richard Bryd provided solicitation records on your behalf consisting of a telemarketing script, names and telephone numbers of telemarketers, telemarketing logs, and a copy of a webpage from the National Do Not Call Registry advising that due to the Government shutdown, website service is not offered. The telemarketing script submitted is not in compliance with OAC 4734-9-02.

Further, the telemarketing script submitted on your behalf states "We're also investigators with the Ohio Accident Consultants and Investigations. We investigate accidents in the Ohio area." Richard Bryd is the incorporator of Ohio Accident Consultants and Investigations. It was registered with the Ohio Secretary of State as a marketing firm on February 6, 2019. According to Roderick Harvey ("Investigator Johnson" aka "Investigator Jones"), he is the investigator for Ohio Accident Consultants and Investigations.

77 South High Street, 16th Floor • Columbus, Ohio 43215-6108

Phone: (614) 644-7032 • Fax: (614) 752-2539

Toll Free Consumer Hotline: (888) 772-1384

website: <http://www.chirobd.ohio.gov> • e-mail: OSCB.ChiroBd@chr.state.oh.us

“Investigator Johnson” (aka Roderick Harvey, aka Investigator Jones) disseminated a solicitation on your behalf that was false, fraudulent, deceptive or misleading. He failed to follow the telemarketing script. He failed to disclose your first and last name and one of these exact terms: chiropractic, chiropractor, doctor of chiropractic, or chiropractic physician. He failed to disclose his identity, your identity and practice name; the purpose of the solicitation and a statement of the goods and services being offered. He failed to provide your practice telephone number. He misrepresented an affiliation with a third-party organization, Ohio Accident Consultants and Investigations. He failed to advised Prospect A how her name and information was acquired and that she was under no obligation to respond to the offer made during the solicitation.

**COUNT 1**

The solicitation made on your behalf to Prospect A constitutes engaging in an ongoing professional relationship with a person or entity that violates any provision of the Board’s laws and rules, in violation of ORC § 4734.31 (C)(9).

**COUNT 2**

The solicitation made on your behalf to Prospect A constitutes a false, fraudulent, deceptive or misleading solicitation, in violation of ORC § 4734.31 (C)(7) and (C)(32) and OAC § 4734-9-02 (C).

**COUNT 3**

Referencing Ohio Accident Consultants and Investigations in your telemarketing script is misleading, when in fact Ohio Accident Consultants and Investigations is telemarketing accident victims, in violation of ORC § 4734.31 (C)(7) and OAC § 4734-9-02 (C).

**COUNT 4**

The solicitation made on your behalf to Prospect A failed to include your first and last name, a violation of ORC § 4734.31 (C)(7) and OAC § 4734-9-02 (E).

**COUNT 5**

The solicitation made on your behalf to Prospect A failed to follow your solicitation script, a violation of ORC § 4734.31 (C)(7) and OAC § 4734-9-02 (L).

**COUNT 6**

The solicitation made on your behalf to Prospect A required an immediate response from Prospect A, a violation of ORC § 4734.31 (C)(7) and OAC § 4734-9-02 (O)(5).

**COUNT 7**

The solicitation made on your behalf to Prospect A failed to provide your practice telephone number, in violation of ORC § 4734.31 (C)(7) and OAC § 4734-9-02 (O)(7).

**COUNT 8**

The solicitation made on your behalf to Prospect A misrepresented an affiliation with a third-party organization, Ohio Accident Consultants and Investigations, in violation of ORC § 4734.31 (C)(7) and OAC § 4734-9-02 (O)(8).

**COUNT 9**

The solicitation made on your behalf to Prospect A failed to advise the Prospect how her name and information was acquired and that she was under no obligation to respond to the offer made during the solicitation, in violation of ORC § 4734.31 (C)(7) and OAC § 4734-9-02 (O)(11).

**LAWS AND RULES AT ISSUE**

ORC Section 4734.31 in pertinent part states:

- (A) The state chiropractic board may take any of the actions specified in division (B) of this section against an individual who has applied for or holds a license to practice chiropractic in this state if any of the reasons specified in division (C) of this section for taking action against an individual are applicable. Except as provided in division (D) of this section, actions taken against an individual shall be taken in accordance with Chapter 119 of the Revised Code. The board may specify that any action it takes is a permanent action. The board's authority to take action against an individual is not removed or limited by the individual's failure to renew a license.
- (B) In its imposition of sanctions against an individual, the board may do any of the following:
  - 1. Refuse to issue, renew, restore, or reinstate a license to practice chiropractic or a certificate to practice acupuncture;
  - 2. Reprimand or censure a license holder;
  - 3. Place limits, restrictions, or probationary conditions on a license holder's practice;
  - 4. Impose a civil fine of not more than five thousand dollars according to a schedule of fines specified in rules that the board shall adopt in accordance with Chapter 119. of the Revised Code.
  - 5. Suspend a license to practice chiropractic or a certificate to practice acupuncture for a limited or indefinite period;
  - 6. Revoke a license to practice chiropractic or a certificate to practice acupuncture.
- (C) The board may take the actions specified in division (B) of this section for any of the following reasons:

7. A violation or attempted violation of this chapter or the rules adopted under it governing the practice of chiropractic and the practice of acupuncture by a chiropractor licensed under this chapter;
9. Engaging in an ongoing professional relationship with a person or entity that violates any provision of this chapter or the rules adopted under it, unless the chiropractor makes a good faith effort to have the person or entity comply with the provisions;
32. Being guilty of false, fraudulent, deceptive, or misleading advertising or other solicitations for patients or knowingly having professional connection with any person that advertises or solicits for patients in such a manner;

OAC Section 4734-9-02 in pertinent part states:

- (A) This rule applies to all forms of chiropractic and acupuncture advertising and solicitation. All advertisements and solicitations shall comply with the provisions of this rule.
- (B) Advertising and solicitation means any communication disseminated by any means with the intent, either directly or indirectly, of offering or selling professional services, or offering to perform professional services, or inducing individuals to enter into any obligation relating to professional services or care or goods related thereto. Advertising includes business cards.
- (C) No chiropractic physician shall disseminate or cause to be disseminated any advertisement or solicitation that is in any way false, fraudulent, deceptive, or misleading.
- (E) All advertisements and solicitations shall include therein the first and last name of a designated chiropractic physician who holds a valid Ohio chiropractic license, who has reviewed and approved the content of the advertisement or solicitation.
- (L) Chiropractic physicians who solicit via any telecommunication method or device shall maintain a record of the names of the individuals called, their telephone number, and a copy of the exact solicitation script(s) used for six months from the date of last use. Failure to maintain the names of the individuals called, their telephone number, and a copy of the exact solicitation script(s) used for six months from the date of last use constitutes a violation of this rule.
- (O) Each of the following constitutes an act of abusive solicitation and is in violation of this rule:
  - (5) Requiring an immediate response from an individual to any offer made during the solicitation or making a one time only offer and/or not permitting the individual to consider the offer and reply at a later time;
  - (7) Failure to provide the practice telephone number of the chiropractic physician on whose behalf the solicitation is being made;

- (8) Misrepresenting an affiliation with, or endorsement by, any government or third-party organization;
  - (11) Failing to advise the prospect how his or her name and information were acquired and that the prospect is under no obligation to respond to the offer made during the solicitation;
- (P) Chiropractic physicians are responsible for the solicitations made by others on his or her behalf.

#### **HEARING PROCEDURES**

Under Section 119.07 of the ORC, you have a right to request a hearing on these allegations. If you request such a hearing, **the request must be received in the office of the Ohio State Chiropractic Board within thirty (30) days of the time of the mailing of this notice.**

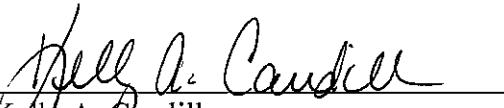
You are hereby notified that you may appear at such hearing in person, represented by your attorney, or by such other representative as is permitted to practice before this agency. You may present your position, arguments, or contentions in writing. Furthermore, you may, at such hearing, present evidence and examine witnesses who may appear for or against you. If you are submitting written documents as evidence, you must bring five (5) copies of each document you plan to submit at the hearing.

If a request for hearing is not received in the office of the Ohio State Chiropractic Board within thirty (30) days of the time of the mailing of this notice, the Board, upon consideration of the charges cited, may in its discretion, discipline your license without such a hearing. If no hearing is requested by you within 30 days of the mailing of this notice of opportunity for hearing, the final adjudication order shall be issued by the board consistent with this notice.

ORC § 119.07 in pertinent part states:

Whenever a party requests a hearing in accordance with this Section and Section 119.06 of the Revised Code, the agency shall immediately set the date, time, and place for the hearing and forthwith notify the party thereof. The date set for the hearing shall be within fifteen days, but not earlier than seven days, after the party has requested a hearing unless, otherwise agreed to by both the agency and the party.

**BY ORDER OF THE OHIO STATE CHIROPRACTIC BOARD**

  
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Kelly A. Caudill  
Executive Director

cc: LaTawnda N. Moore, Associate AAG  
Certified Mail Receipt No. 7017 2620 0000 0880 4151